

SUBCOMMITTEE NO. 5

Agenda

Gloria Romero, Chair
John Campbell
Mike Machado



HEARING OUTCOMES

Agenda – Part A

Thursday, May 19, 2005
Upon adjournment of session
Room 112

Consultant: Brian Annis

Labor and Veterans' Affairs

<u>Item</u>	<u>Department</u>	<u>Page</u>
Proposed Consent Calendar		
7120	California Workforce Investment Board.....	1
8950	Department of Veterans' Affairs	2
	Veterans' Home of California – Yountville	
	Veterans' Home of California – Barstow	
	Veterans' Home of California – Chula Vista	
Departments with Issues Proposed for Discussion		
0559	Labor and Workforce Development Agency.....	5
7100	Employment Development Department.....	7
7350	Department of Industrial Relations	14
	Attachments	20

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Departments with issues proposed for consent / vote-only**7120 California Workforce Investment Board**

The federal Workforce Investment Act (Act) of 1998 established new requirements for employment and training programs for adults, youth, and dislocated workers. Pursuant to the provisions of the Act, the Governor established the California Workforce Investment Board (CWIB) comprised of the Governor; two members of the Senate, appointed by the President pro Tempore; two members of the Assembly, appointed by the Speaker; and representatives of business, labor organizations, community-based organizations, schools and colleges, state agencies, and local governments appointed by the Governor. The Board is tasked with developing workforce development programs into an integrated workforce investment system that can better respond to the employment, training, and education needs of its customers.

The Governor's January Budget proposed \$5.6 million (federal funds and reimbursements) and 28.0 positions for the Board's budget – an increase of \$286,000. The Administration did not submit Budget Change Proposals for this item.

Issue:

- 1. Administrative Reductions to Redirect Savings to Training (April Finance Letter #1):** The Administration requests to reduce the CWIB budget by \$775,000 and 6.0 positions, and redirect the savings to state and local training programs. The Administration indicates the remaining 22 positions would be sufficient to meet federal requirements and essential activities, and the reduction would not have a negative effect on the Board or its partners. The positions slated for abolishment are currently vacant.

Staff Comment: The Administration indicates this proposal is motivated by reductions in federal training money and the desire to maximize actual labor training and minimize administrative expenditures.

Action: Approved Finance Letter on a 3-0 vote.
--

8950 Department of Veterans Affairs

The Department of Veterans Affairs has three primary objectives: (1) provide comprehensive assistance to veterans and dependents of veterans in obtaining benefits and rights to which they may be entitled under state and federal laws; (2) afford California veterans the opportunity to become homeowners through loans available to them under the Cal-Vet farm and home loan program; and (3) provide support for California veterans' homes where eligible veterans may live in a retirement community and where nursing care and hospitalization are provided. The department operates veterans' homes in Yountville (Napa County), Barstow (San Bernardino County), and Chula Vista (San Diego County). The homes provide medical care, rehabilitation, and residential home services. With \$50 million in general obligation bonds (Proposition 16, 2000), \$162 million in lease-revenue bonds (most recently amended by AB 1077 [Chapter 824, Statutes of 2004, Wesson]), and federal funds, new homes will be constructed in West Los Angeles, Lancaster, Saticoy, Fresno, and Redding.

The Governor's January Budget proposed total expenditures of \$301.5 million (\$67.7 million General Fund), an increase of \$3.0 million from the current-year budget.

Issues:**1. Unallocated Budget Reduction (Governor's Budget and May Finance Letter).**

The Governor's Budget proposed an unallocated General Fund reduction of \$973,000. No information was provided with the budget on how these cuts would be distributed among the Veterans' Homes and headquarters and how these cuts might affect the quality of veteran care. The Subcommittee held open the issue at the March 10, 2005, hearing and requested additional information on this proposed reduction. The Administration never provided this detail; however, a May Finance Letter rescinds \$876,000 of the reduction leaving an unallocated reduction of \$97,000.

Staff Comment: Given past budget reductions and deficiency requests, it is questionable that the Department would be able to absorb a reduction of \$973,000 while at the same time not redirecting any funds from the augmentations in the Budget Change Proposals requested below, or affecting the quality of veteran care. The Department indicates the remaining \$97,000 unallocated General Fund reduction will be taken at the headquarters. Approval of the May Finance letter would restore \$876,000 in General Fund support and maintain an unallocated reduction of \$97,000.

Action: Approved Finance Letter on a 3-0 vote.

- 2. Veterans Claims Staffing (Budget Change Proposal #5).** The Department requests \$170,000 (General Fund) and two two-year limited-term positions to liquidate a backlog of claims and delayed benefits for veterans who are represented by the State in the appeals process with the U.S. Department of Veterans Affairs. This issue was heard by the Subcommittee on March 10, 2005, but left open pending resolution of the unallocated General Fund reduction.

Action: Approved Finance Letter on a 3-0 vote.

- 3. Hospital Cost Accounting System (Budget Change Proposal #7).** The Department requests a one-time augmentation of \$100,000 (General Fund) to hire a consulting firm with expertise in hospital cost accounting systems. If approved and implemented, the Department indicates it would be better able to report costs for different types of care, and better estimate operational costs for new veterans homes to be opened in the future. This issue was heard by the Subcommittee on March 10, 2005, but left open pending resolution of the unallocated General Fund reduction.

Action: Approved Finance Letter on a 3-0 vote.

- 4. Capital Outlay Projects – Yountville Home (Capital Outlay Budget Change Proposals).** The Department requests a total of \$862,000 (General Fund) for the following three minor capital outlay projects at the Yountville home.
- \$260,000 to increase the number of paved parking spaces to serve veterans who live in Sections F and D, and their guests.
 - \$399,000 to increase the number of paved parking spaces to serve veterans who live in Sections C and E, and their guests.
 - \$203,000 to build five new bus shelters (eight bus shelters currently exist) to protect residents from sun and rain.

Staff Comment: This issue was heard by the Subcommittee on March 10, 2005, but left open pending resolution of the unallocated General Fund reduction. The Department indicates these requests address health and safety concerns for veterans and their guests.

Action: Approved Finance Letter on a 3-0 vote.

- 5. Lease-Revenue Bond Debt Service (May Finance Letter).** The Administration requests adjustments to the appropriation item that supports rental payments on lease-revenue bonds to reflect increased reimbursements of \$1.5 million. This is a technical adjustment based on revised estimates for base rental payments, fees and insurance costs.

Action: Approved Finance Letter on a 3-0 vote.
--

Does the Subcommittee want to approve all the issues on the consent / vote-only list for the California Workforce Investment Board and the Department of Veterans Affairs?

Action: All consent issues were approved on a single motion on a 3-0 vote.
--

Department Budgets Proposed for Discussion

0559 Secretary for Labor and Workforce Development

The Labor and Workforce Development Agency (Agency) brings together the departments, boards and commissions that train, protect and provide benefits to employees and employers of California, such as unemployment insurance and workers' compensation. The roles and responsibilities of the agency are codified in Chapter 859, Statutes of 2002 (SB 1236). The Labor and Workforce Development Agency includes the Department of Industrial Relations, the Employment Development Department, the Agricultural Labor Relations Board and the Workforce Investment Board. The Agency provides policy and enforcement coordination of California's labor and employment programs and policy and budget direction for the departments and boards.

Proposed Budget: The Governor's January Budget proposes \$2.2 million (all reimbursements from departments) and 13.2 positions for the Secretary's budget – an increase of \$19,000. The Administration did not submit any Budget Change Proposals for this item.

Issue for Discussion

1. **Agency-Produced Video News Releases.** The Agency expended \$1,815 on a video, which was provided to media outlets, that advocates for meal-period regulations proposed by the Administration. The production of the video involved the following four state entities.

- The Labor and Workforce Development Agency: Produced, distributed, and funded the video.
- The Employment Development Department (EDD): Provided the facility at which the video was produced.
- The Department of General Services: Made the video for a \$1,262 fee.
- The Department Industrial Relations: Posted transcripts of the video on the Department's website.

The Agency and the EDD facility have also been involved with other video news releases. Staff understands the Administration's production of the meal-break video is the subject of a pending lawsuit.

March 10, 2005 Hearing: The Agency defended their production of video news releases, indicating these were the modern equivalent of a paper press release. The Subcommittee held the Agency budget open and requested additional information on the Agency's cost of video news releases.

Administration Response: The Agency sent a letter, dated March 21, 2005, responding to questions raised at the hearing. The Agency indicated that their

actual communications expenditures were \$14,000 in 2003-04 (including costs for telephones, courier services, UPS, Fed Ex etc.). Communications are budgeted for \$23,000 in 2004-05 and \$26,000 in 2005-06. The meal-break video cost the Agency \$1,815, and the Agency indicates the cost of a paper news release varies from \$306 to \$1,191, depending on the research required and the means of dissemination.

Legislative Counsel Opinion: In an opinion dated March 16, 2005, and titled *Use of Public Funds: Video News Release - #0509655*, the Legislative Counsel found that “the Labor and Workforce Development Agency was not authorized to expend public funds, or use other public resources, in connection with the production and distribution of a video news release in support of the meal and break period regulations.”

Other Related Budget Actions: Budget Subcommittee #4 deleted one position and related funding for a position in the Department of General Services Budget that primarily worked on video news releases. An issue in this agenda under the Employment Development Department (EDD) would move EDD’s video production facility to the Department of General Services and make related budget adjustments.

Does the Subcommittee wish to vote to approve the Agency’s Budget?

Action: Reduced the Agency’s Budget by \$12,000 on a 2-1 vote, with Senator Campbell voting no.

7100 Employment Development Department

The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Family Leave program, and assists job seekers by providing employment and training programs under the federal Welfare-to-Work Act of 1997 and Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

Proposed Budget: The Governor's January Budget proposes \$11.6 billion (\$19.2 million General Fund), a decrease of \$562.3 million (4.6 percent) from the current-year budget. The change is primarily driven by a projected decrease in benefit claims due to improved economic conditions.

EDD Issues Proposed for Consent / Vote Only

- 1. Staffing Reduction Due to Shift of Responsibility to the Federal Government (April Finance Letter #1).** The Administration requests a reduction of \$8.7 million and 112 positions to reflect workload in the foreign-labor certification area that has been shifted from the states to the federal government pursuant to federal requirements.

Background / Detail: Until January 1, 2005, the EDD processed alien labor certification applications from employers seeking workers. The EDD indicates it continued with some workload related to backlogged cases through March 31, 2005. New federal regulations require that the federal government, instead of states, process alien labor certification applications and employers are now submitting applications directly to the federal government. EDD reports all the effected workers are being transferred to fill vacancies within the department.

EDD would retain 24 positions and \$4.1 million for operations not transferred to the federal government in the area of agricultural and temporary labor certification.

Staff Comment: The EDD indicates that shifting the foreign-labor certification workload to the federal government is non-discretionary. Therefore, this budget request is primarily a technical, not policy, adjustment to reflect EDD workload.

Action: Approved Finance Letter on a 3-0 vote.
--

2. Benefit Adjustments (May FL). The Administration requests budget adjustments (all special funds) to reflect the May 2005 forecast of benefit payments and resulting administrative costs. The adjustments are a result of recent benefit claim levels, and of the updated forecast of future claims. Provisional language in the budget bill allows for expenditures in excess of appropriations for these benefit programs, upon approval by the Director of Finance, if benefit claims exceed the budgeted figures.

- Unemployment Insurance (UI): Benefit payments are estimated to decrease by \$313.4 million in 2004-05 and increase by \$36.1 million in 2005-06. Administrative expenditures are proposed to decrease by 326.1 positions and \$23.1 million.
- Disability Program: Benefit payments are estimated to decrease by \$158.8 million in 2004-05 and decrease by \$144.9 million in 2005-06 – both relative to the figures in the Governor’s January Budget. Administrative expenditures are proposed to decrease by 68.8 positions and \$4.5 million.
- School Employees Fund Program: Benefits are proposed to decrease by \$420,000 in 2004-05 and increase by \$26.8 million in 2005-06 – both relative to the figures in the Governor’s January Budget. No administrative adjustments are proposed.

Staff Comment: No issues have been raised with this request.

Action: Approved Finance Letter on a 3-0 vote.
--

3. Workforce Investment Act Adjustments (May FL). The Administration requests budget adjustments related to reductions in federal Workforce Investment Act (WIA) funding. WIA supports workforce training with 85 percent of funds programmed by local Workforce Investment Boards and 15 percent of “discretionary” funds at the state level for support of various workforce training efforts. Expenditure reductions are proposed as follows:

- In 2004-05, local assistance is reduced by \$5.8 million and state support is reduced by \$24,000.
- In 2005-06, local assistance is reduced by \$7.6 million and state support is reduced by \$1.2 million. After these adjustments, the local assistance item is \$334.8 million, and the state support item is \$154.0 million.

Staff Comment: No issues have been raised with this request.

Action: Approved Finance Letter on a 3-0 vote.
--

- 4. Underground Economy Enforcement (Budget Change Proposal #8).** The Governor proposes to augment the Employment Development Department by \$2.5 million (EDD Contingent Fund and Disability Insurance Fund) and 23.7 positions (3-year limited-term) to conduct increased enforcement activities against employers who violate labor laws. The EDD indicates this proposal would combat a significant increase in the number of employers attempting to illegally cut operating costs by converting acknowledged employees to independent contractors. Since this effort is expected to identify unreported wages, EDD projects a General Fund benefit of \$780,000 in the first year, and \$1.8 million annually thereafter.

This request is one of three requests from the Administration that make up the “Economic and Employment Enforcement Coalition” proposal. If the proposal is approved, EDD will work with the other proposed coalition members, the Department of Industrial Relations and the Contractors’ State License Board, to reduce underground-economy activity, and in doing so reduce unfair competition for employers who follow labor laws.

March 10, 2005 Hearing: The Subcommittee held this open to coordinate actions with Subcommittee #4, which has purview over the Contractor’s State License Board.

Staff Comment: Budget Subcommittee #4 was supportive of this proposal and approved the related augmentation for the Contractor’s State License Board.

Action: Approved the Budget Change Proposal on a 2-1 vote, with Senator Campbell voting no.

5. Employment Training Panel (Governor's Budget and April Finance Letter).

Employment Training Panel (ETP) Program expenditures are proposed at \$36 million in 2005-06, down from \$44 million in 2004-05. The mission of ETP is to provide financial assistance to California businesses to promote customized worker training through partnerships with government, business, and labor. A portion of ETP funds are used annually to support training in the CalWORKs program. The amount of ETP funding for CalWORKs has increased in recent years to offset General Fund reductions.

Control Section 6.60 of the 2004 Budget Act provided for State government workers' compensation savings, up to \$40 million, to be directed to CalWORKs with an equal reduction in the ETP transfer to CalWORKs. The Administration reported, in the Governor's Budget, that this mechanism has resulted in \$16 million for additional ETP grants. The \$16 million is an ongoing benefit to ETP.

Finance Letter Adjustment: The Administration requests a \$391,000 increase in the ETP transfer to CalWORKs and a corresponding \$391,000 reduction to the appropriation for the Employment Training Panel Program. This change is requested to correct an error in the Control Section 6.60 calculation that resulted from double-counting the savings from the Department of Fair Employment and Housing.

Action: Approved Finance Letter on a 3-0 vote.
--

EDD Issues Proposed for Discussion / Vote

- 1. Video Production Positions & Facility.** The Subcommittee may want to consider transferring EDD's video production facility to the Department of General Services (DGS). EDD operates a video production facility in downtown Sacramento and employs four staff to perform video production work. Some, but not all of this work is related to video news releases. Other workload may include the production of public service announcements, current events notices, newsletters, and training videos. DGS is the state entity charged with providing centralized business services to state departments. The EDD facility might be better managed and more efficiently utilized under the management of DGS.

Background / Detail: EDD employs four individuals at a total cost of \$402,000 to provide video production services to EDD and for other state departments through reimbursement. The video production equipment was partially purchased with federal labor funds, and if the equipment is transferred to DGS, DGS would have to reimburse EDD for the depreciated cost of the equipment to comply with federal regulations.

California Performance Review (CPR) Recommendation: The CPR issued a recommendation titled, "GG43 Reduce State Video Production Costs," which suggested that some state departments were contracting with private vendors for video production work that could be obtained less expensively from other state departments. The CPR talked to five state departments that had purchased video production services from private vendors and found that either: (1) these departments were not aware the state could provide the service, or (2) they found the state agencies with video production capabilities to be unresponsive, difficult to use, or took too much time.

Staff Comment: Consolidating EDD's video production facilities within DGS would create a better one-stop shop for these services, and perhaps lead to efficiencies. Since EDD's facility is in downtown Sacramento, it is near the headquarters of many state departments and convenient for top officials who may appear in these video productions. DGS is a centralized services provider, and may be better-able to alert other state agencies to these services and implement all required accounting and reporting requirements.

Action: Approved motion from the Chair to reduce EDD's budget by \$402,000, eliminate 4 positions, and transferred the video production facility to DGS. Action was approved on a 2-1 vote with Senator Campbell voting no.

- 2. Workforce Investment Act (WIA) Provision Language (LAO issue):** *In the Analysis of the 2005-06 Budget Bill*, the LAO recommends that the Legislature delete Provision 1 of the WIA Budget Act appropriation that allows the Administration to expend unanticipated “discretionary” WIA funds without the typical legislative review and normal budget requirements.

Background: WIA funds are federal funds provided to states for labor-force training and development purposes. Fifteen percent of WIA funds, called discretionary funds, can be spent on a range of workforce employment activities (state administration, statewide initiative, current employment services programs, and competitive grant programs) upon appropriation by the Legislature. The remaining 85 percent of WIA funds are allocated to local Workforce Investment Boards. Provision 1 of Item 7100-001-0869 of the 2004 Budget Act exempts the WIA appropriation from Section 28.00 requirements. Section 28.00 of the Budget Act restricts the Administration’s expenditure of unanticipated federal funds and requires 30-day notification to the Legislature.

In December 2004, the Director of Finance notified the Legislature of \$21.7 million in unspent WIA funds from 2003-04. Pursuant to Provision 1, the notification creates expenditure authority without the normal input from the Legislature.

March 10, 2005 Hearing: The Subcommittee kept this item open, at the request of the Administration and the LAO, so compromise language could be further discussed.

Compromise Language: The Administration and the LAO developed compromise language that addresses the LAO’s concern about legislative oversight of unspent WIA discretionary funds and unanticipated new federal funds. In addition, it streamlines the account of administration and program services relative to the requirement of Control Section 28.00. The language is Attachment A at the back of this agenda.

Staff Comment. The compromise language is acceptable to both the LAO and the Administration. Technical conforming changes may be needed for the May Revision WIA Finance Letter (vote-only issue #3).

Action: Approved LAO compromise language on a 3-0 vote.

- 3. Nursing Education Initiative (May Finance Letter).** The Administration requests an augmentation of \$10 million: \$5 million from the Employment Training Fund (ETF) (on-going) and \$5 million General Fund (one-time) to provide funding for three projects to encourage people to enter the nursing field. Specifically, the Administration proposes to provide \$2.5 million (General Fund) for Nursing Student Loan Forgiveness; \$2.5 million (General Fund) for Regional Clinical Simulator Grants; and \$5 million (ETF) for Nursing Pre-apprenticeship Programs. The Administration estimates these programs will generate an additional 1,360 nurses each year. Trailer-bill language is associated with this request

LAO Recommendation: The LAO indicates the Administration's proposal does not have a mechanism for informing the Legislature of their success in their charter to meet the demand for Nurses. The LAO recommends, along with the current amendments proposed by the administration, that the following placeholder language be added to Section 9619 of the Unemployment Insurance Code:

The Labor and Workforce Development Agency shall report to the Legislature at the time of budget hearings on the progress and impacts of initiatives related to increasing the training and workforce entry of nurses. This report shall include but not be limited to: (1) each initiative and its target population, (2) total proposed and expended funds for each initiative, (3) the number of participants who entered and completed each program, (4) any related data demonstrating the impact of the programs.

Action: Approved Finance Letter with the addition of LAO language on a 2-1 vote, with Senator Campbell voting no.

7350 Department of Industrial Relations

The objective of the Department of Industrial Relations is to protect the workforce in California, improve working conditions, and advance opportunities for profitable employment. The department enforces workers' compensation insurance laws and adjudicates workers' compensation insurance claims; works to prevent industrial injuries and deaths; promulgates and enforces laws relating to wages, hours, and conditions of employment; promotes apprenticeship and other on-the-job training; assists in negotiations with parties in dispute when a work stoppage is threatened; and analyzes and disseminates statistics which measure the condition of labor in the state.

The Governor's January Budget proposes \$344.1 million (\$63.1 million General Fund), an increase of \$25.1 million from the current-year budget.

DIR Issues for Consent / Vote Only:

- 1. Personal Alarm Devices Mandate (Finance Letter request).** The Administration is requesting the addition of the Personal Alarm Devices mandate to DIR's mandate item in the budget bill. This mandate was erroneously omitted from the Governor's proposed budget bill. The Administration proposes to suspend this mandate for 2005-06, which is the same action approved by the Legislature for the 2004-05 budget. The mandate requires every fire fighter engaged in fire fighting activities, as specified, to have an alarm device which will activate if the fire fighter is motionless for 20 to 40 seconds. Suspending the mandate makes the activity optional for local governments during the budget year. Since this mandate has been suspended for many years, the annual cost of this mandate (if it was not suspended) is unknown.

Staff Comment: No concerns have been raised with this issue.

Action: Approved Finance Letter on a 3-0 vote.
--

2. Economic and Employment Enforcement Coalition (BCP #1 & 2, FL #3). The Governor proposes an augmentation of \$3 million (special funds) and 27.5 positions (three-year limited term) to conduct increased enforcement activities against employers who violate labor laws. The DIR would use these additional positions to increase inspection activity and issue citations and penalties to employers who keep employees “off the books” and/or do not follow workplace safety regulations. The following two DIR Divisions are included in this request:

- The Division of Labor Standards Enforcement (BCP #1) would receive \$1.5 million and 16 positions for investigation, enforcement, and collection activities associated with labor-law violations in the areas of workers’ compensation, minimum and overtime wages, and licensing compliance. These positions would be funded from the Uninsured Employers Benefits Trust Fund, the Garment Industry Regulation Fund, and the Unpaid Wage Fund. The Division is 80-percent funded by the General Fund, and past General Fund reductions have reduced staffing from 493 in 2001-02 to 403 in 2003-04.
- The Division of Occupational Health and Safety (BCP #2) would receive \$1.5 million and 13 positions for targeted enforcement of workplace health and safety laws for the following industries with higher levels of non-compliance: construction, agriculture, and garment manufacturing. These positions would be funded from the Targeted Inspection & Consultation Fund and the Industrial Relations Unpaid Wage Fund. DIR reports funding for field enforcement positions has declined in recent years – with 245 positions funding in 2001-02 and 209 positions funded in 2004-05.

The Employment Development Department and the Contractors’ State License Board are the other members of the proposed Economic and Employment Enforcement Coalition.

March 10, 2005 Hearing: The Subcommittee held this open to coordinate actions with Subcommittee #4, which has purview over the Contractor’s State License Board.

Finance Letter 3 Adjustments: The Administration submitted an April Finance Letter requesting revisions to budget bill language to clarify that the Unpaid Wage Fund could be used to fund the Economic and Employment Enforcement Coalition. The language below is consistent with the stated intent in BCP #1 and #2.

7350-001-0913

Provisions:

"1. Notwithstanding any other provision of law, funds appropriated by this item shall be expended by the Department of Industrial Relations Division of Labor Standards Enforcement and the Division of Occupational Safety and Health to administer: (1) the Targeted Industries Partnership Program to increase enforcement and compliance in the agricultural, garment, and restaurant industries- ; and (2) the

Economic and Employment Enforcement Coalition (Underground Economy Enforcement Program)."

Staff Comment: Budget Subcommittee #4 was supportive of this proposal and approved the related augmentation for the Contractor's State License Board. The amendments to budget bill language requested in Finance Letter #3 are consistent with the stated intent of the January proposal.

Action: Approved Finance Letter on a 2-1 vote, with Senator Campbell voting no.

Department of Industrial Relations: Issues for Discussion and Vote

- 1. Unpaid Wage Fund Transfers to the General Fund (FL #3).** The Administration requests changes to statute and a new budget bill transfer item to change the mechanism for transferring surplus reserves in the Unpaid Wage Fund (UWF) to the General Fund. Additionally, the new language would change the reserve requirement from \$200,000 to a six-month reserve.

Background / Detail: The UWF was created in 1975 as a fund for the deposit of unpaid wages or benefits collected by the Labor Commissioner. The monies are remitted to the unpaid worker, unless that worker cannot be located. The Labor Code includes a provision that requires the transfer of balances over \$200,000 in the UWF to the General Fund. The Administration argues that the \$200,000 reserve has not been adjusted for inflation and is no longer a sufficient reserve. In 1993-94, provisional language was added to the budget bill to allow UWF to be used for the Targeted Industry Partnership Program (TIPP) to increase enforcement and compliance in the agricultural, garment, and restaurant industries. This year, the Administration has requested authority to allow UWF to be used also for the Economic and Employment Enforcement Coalition (see vote-only issue #2 on the prior pages).

The Administration reports that \$1.8 million was transferred from the UWF to the General Fund in 2002-03. No transfers were made in 2003-04, but a \$4.0 million transfer will occur in 2004-05. Ongoing annual transfers to the General Fund are expected to be in the \$1 million to \$2 million range, however, the 2005-06 transfer may be less due to some one-time expenditures.

The proposed statutory amendments are Attachment B at the back of this agenda.

The proposed new budget bill item as follows:

7350-011-0913—For transfer by the Controller, upon order of the Director of Finance, from the Industrial Relations Unpaid Wage Fund, to the General Fund.....(\$1,000)

Provisions:

- 1. Notwithstanding any other provision of law, the State Controller shall transfer to the General Fund the unencumbered balance, less six months of expenditures, as determined by the Director of Finance, in the Industrial Relations Unpaid Wage Fund as of June 30, 2006.*

Staff Comment: The Administration's proposed language deletes the General Fund transfer language from statute and adds modified language to the budget bill. Since this is intended to be an ongoing transfer, the Subcommittee may want to additionally add the six-month balance requirement to statute.

Action: Approved Finance Letter and the LAO's recommended changes to trailer bill language on a 3-0 vote.

- 2. Re-establish Positions and Reappropriate Funds (FL #1).** The Administration requests the re-establishment of up to 274.3 positions added to implement workers' compensation legislation, which have been vacant more than six months and are subject to elimination by Government Code 12439. No new funding is requested for these positions as the Government Code eliminates positions but does not reduce budgetary authority. The Department indicates these vacancies have resulted from delays in implementing specific components of recent workers' compensation reforms, and delays in the hiring process. Additionally, the Administration requests a reappropriation of \$990,000 (Workers' Compensation Administration Revolving Fund) for one-time costs related to an office move and file destruction.

Background / Detail: To address new workers' compensation reform workload, the 2003-04 budget added 72 positions and the 2004-05 budget added an additional 314 new positions. DIR received partial-year funding (9 months) for these positions in 2004-05, because some positions were established after July 1, 2004. As of February 1, 2005, 274.3 of these positions were still vacant. These positions were added to DIR's budget to implement recent workers' compensation reform bills: AB 749 (Chapter 6, Statutes of 2002, Calderon); SB 228 (Chapter 639, Statutes of 2003, Alarcón); and SB 899 (Chapter 34, Statutes of 2004, Poochigian). DIR anticipates saving of approximately \$15 million in 2004-05 due salary savings.

To implement this proposal, the Administration requests approval of the following budget bill language:

7350-001-0223

Provisions:

X. Notwithstanding any other provision of law, upon approval of the Department of Finance, the State Controller's Office shall re-establish up to 274.3 vacant positions within the Department of the Industrial Relations provided for the implementation of Workers' Compensation Reforms (Ch.6/02; Ch. 639/03; Ch. 34/04).

New Item

7350-491—Reappropriation, Department of Industrial Relations. Up to \$990,000 of the appropriation provided in Item 7350-001-0223, Budget Act of 2004 (Ch. 208, Stats, 2004), is reappropriated and shall be available for expenditure until June 30, 2006.

Provision:

1. Up to 274.3 vacant positions expiring pursuant to Government Code 12439 provided to implement workers' compensation reforms may be re-established upon approval of the Department of Finance.

Staff Comment: Approving this request is consistent with the action taken last year that added these positions. The Department indicates the workload has not diminished and these positions are still necessary.

Action: Approved Finance Letter on a 3-0 vote.
--

- 3. Division of Labor Standards Enforcement Positions (Staff Issue).** Assembly Budget Subcommittee #4 augmented the DIR budget by \$1.5 million (General Fund) to add 16 positions and increase enforcement activity. The Assembly also adopted provisional language specifying that the \$1.5 million cannot supplant other funding, and adopted supplemental report language requiring annual reporting on the effectiveness of the Department's labor enforcement efforts (the language is Attachment C to this agenda).

Background: The Bureau of Field Enforcement is part of the Department of Industrial Relations' Division of Labor Standards Enforcement. The Bureau is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. The Governor's January Budget includes 407.1 positions costing \$22 million to staff the entire Division of Labor Standards. According to the Department of Industrial Relations, \$1.5 million would be enough funding to pay for an additional team of field investigators of 16 staff.

Staff Comment: The California Rural Legal Assistance Foundation has requested that the Subcommittee appropriate \$5 million for additional field enforcement. The Governor's Budget proposed a \$1.5 million and 16 position augmentation for the enforcement using special fund revenue (see vote-only issue # 2 on page 15). Notwithstanding the merits of additional enforcement, the additional \$5 million augmentation would be General Fund, and as such, should be considered relative to other General Fund priorities.

Action: Approved motion by the Chair to augment the Bureau of Field Enforcement by \$3.0 million and 32 positions and adopted the language on Attachment C. Action was approved on a 2-1 vote, with Senator Campbell voting no.

Attachment A - Proposed Budget Bill Language for the Workforce Investment Act Governor's Discretionary Funds:

Item 7100-001-0869—For support of state programs under the Workforce Investment Act (WIA), Employment Development Department, payable from the Consolidated Work Program Fund.....155,286,000

Schedule:

(1)	61.35 WIA Administration and Program Services.....	27,786,000
(2)	61.40 WIA Growth Industries.....	4,600,000
(3)	61.50 WIA Industries with a Statewide Need.....	14,200,000
(4)	61.60 WIA Removing Barriers for Special Needs Populations.....	18,100,000
(5)	61.70 WIA Rapid Response Activities.....	45,600,000
(6)	62.10 National Emergency Grant Program.....	45,000,000

Provisions:

- Provision 1 of Item 7100-001-0588 also applies to *schedules (1) and (5)* of this item.
- For Schedules (2), (3), and (4); the Employment Development Department shall submit on October 1, 2005 and April 20, 2006, to the Department of Finance for its review and approval, an estimate of expenditures for both the current and budget years, including the assumptions and calculations underlying the Employment Development Department's projections for expenditures to these schedules. To the extent the Employment Development Department identifies unspent or receives unanticipated additional federal Workforce Investment Act (WIA) 15 percent discretionary funds, the Department of Finance may increase expenditure authority for schedules (2) through (4) inclusive, if the additional funding (1) is consistent with the expenditure plan for WIA discretionary funds in this item and (2) meets the four requirements specified in Section 28.00 (b) of this Act. Any augmentation that exceeds two-hundred fifty thousand dollars (\$250,000) may be authorized not sooner than 30 days after notification in writing is provided to the chairpersons of the committees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.*
- The Secretary Labor and Workforce Development is authorized to transfer up to \$500,000 of the funds appropriated in this item to the California Workforce Investment Board, Federal Trust Fund, Item 7120-001-0890, to facilitate the implementation and operation of the WIA Program. Any transfer made pursuant to this provision shall be reported in writing to the Department of Finance, the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date of the transfer.
- Notwithstanding any other provision of law, the Secretary of Labor and Workforce Development is authorized to transfer funds between categories (Schedules (1) to (4), inclusive) as included in the Schedule to be used for projects. Any transfer made pursuant to this provision shall be reported in writing to the Department of Finance, the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date of the transfer.

**Attachment B - Department of Industrial Relations
Administration-Proposed Trailer Bill Language**

96.7. The Labor Commissioner, after investigation and upon determination that wages or monetary benefits are due and unpaid to any worker in the State of California, may collect such wages or benefits on behalf of the worker without assignment of such wages or benefits to the commissioner.

(a) The Labor Commissioner shall act as trustee of all such collected unpaid wages or benefits, and shall deposit such collected moneys in the Industrial Relations Unpaid Wage Fund.

(b) The Labor Commissioner shall make a diligent search to locate any worker for whom the Labor Commissioner has collected unpaid wages or benefits.

(c) All wages or benefits collected under this section shall be remitted to the worker, his lawful representative, or to any trust or custodial fund established under a plan to provide health and welfare, pension, vacation, retirement, or similar benefits from the Industrial Relations Unpaid Wage Fund.

(d) Any unpaid wages or benefits collected by the Labor Commissioner pursuant to this section shall be retained in the Industrial Relations Unpaid Wage Fund until remitted pursuant to subdivision (c), or until deposited in the General Fund pursuant to subdivision (e).

~~—(e) Whenever the balance in the Industrial Relations Unpaid Wage Fund is in excess of two hundred thousand dollars (\$200,000), the Labor Commissioner shall transmit this excess amount to the Controller for deposit in the General Fund.~~

(f) All wages or benefits collected under this section which cannot be remitted from the Industrial Relations Unpaid Wage Fund pursuant to subdivision (c) because money has been transmitted to the General Fund pursuant to subdivision (e) shall be paid out of the General Fund from funds appropriated for that purpose.

**Attachment C - Department of Industrial Relations
Provisional Language to Augment Fair Labor Standards Enforcement**

Add Provision 2 to Item 7350-001-0001:

2. *Of the amount provided in Schedule (6), \$3,000,000 shall be solely expended for additional field enforcement efforts by the Labor Commissioner and the Bureau of Field Enforcement regarding minimum wage and overtime law compliance in construction, agriculture, garment manufacturing, janitorial and restaurant employment.*
- (a) The department is authorized to establish positions for the purposes of expanding the additional field enforcement efforts.*
- (b) The new funds shall be divided equally between urban and rural enforcement efforts;*
- (c) The new enforcement efforts funded by the augmentation shall not be used to supplant funding previously intended by Division of Labor Standards Enforcement to go into field enforcement activities for this fiscal year.*
- (d) The Department shall provide the Legislature with a description of additional minimum wage and overtime law compliance activities undertaken with this augmentation, as well as an assessment of whether a continued special focus on minimum wage and overtime law compliance is warranted. This update shall be provided during budget hearings.*

Proposed Supplemental Report Language:

The Labor Commissioner shall report annually at the time of budget hearings on the effectiveness of the Bureau of Field Enforcement. The report shall include a description of additional minimum wage and overtime law compliance activities as well as an assessment of whether a continued special focus on minimum wage and overtime law compliance is warranted.